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September 3, 2020

VIA ECF

Honorable Richard Seeborg
U.S. District Court for the Northern District of California
Phillip Burton Federal Building and United States Courthouse
Courtroom 3–17th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

Re: *Express Mobile, Inc. v. Wix.com Ltd and Wix.com, Inc.*
U.S.D.C.-ND Cal. Case No. 3:19-cv-06559-RS

Dear Judge Seeborg,

For the Court's benefit, we write to provide additional information concerning Mr. Nuttall's August 28 letter (D.I. 72) regarding the assignment of Magistrate Judge Corley for discovery disputes. Magistrate Judge Corley recently presided over a miscellaneous action (Case No. 20-mc-80091-JSC) arising out of a related litigation pending in the United States District Court for the District of Delaware. See *Shopify (USA), Inc., et al v. Express Mobile, Inc.*, Civil No. 19-cv-439 (RGA) (the "Shopify litigation"). The Shopify litigation involves the same five patents asserted against Wix in this action, and the dispute before Judge Corley concerns privilege assertions over communications between Express Mobile and third parties that involved Express Mobile's patent agent, Dr. Steven Vosen.

In the miscellaneous action, Judge Corley thoroughly analyzed privilege disputes analogous to those at issue in this matter against Wix, reviewed sealed declarations and Express Mobile's purportedly privileged materials *in camera*, and rendered a 24-page opinion in which she found that 13 of the 15 communications submitted by Shopify for *in camera* review had been improperly withheld on the basis of privilege assertions by Express Mobile. See *In the Matter of a Subpoena to Non-Party Steven Vosen*, No. 20-mc-80091-JSC, D.I. 27. Express Mobile, who appeared in the miscellaneous action, and whose outside litigation counsel represented Dr. Vosen in that action, never objected to Judge Corley's assignment to the miscellaneous action.

Honorable Richard Seeborg
September 3, 2020
Page 2

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Timothy Saulsbury", with a stylized flourish at the end.

Timothy Saulsbury

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